

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 22, 2001

DIVISION ONE

B138284 Lallas
 v.
 Lallas

Filed order denying petition for rehearing.

B138858 People (Not for Publication)
 v.
 White

We affirm the judgment.

Ortega, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B142808 Paulk (Not for Publication)
 v.
 Snyder

The judgment is affirmed. The Department is awarded its costs of appeal.

Vogel (Miriam A.), J.

I concur: Spencer, P.J.
I dissent: Mallano, J. (Opinion)

March 22, 2001-Continued

DIVISION ONE (Continued)

B144730 People v. Padilla (Not for Publication)

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B142603 People (Not for Publication)
v.
Flores

The judgment is affirmed and the cause is remanded to the trial court with directions to consider anew whether Flores's sentence should be concurrent or consecutive and, if the former, to resentence Flores and issue a corrected abstract of judgment.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

B142801 People (Not for Publication)
v.
Nunez

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION ONE (Continued)

B144465 Advanced Bionics Corporation et al. (Certified for Publication)
 v.
 Medtronic, Inc.
B144920 Medtronic, Inc.
 v.
 S.C.L.A.
 Advanced Bionics Corporation et al. (r.p.i.)

The restraining order is affirmed. The petition is denied. Stultz and Advanced Bionics are entitled to their costs of appeal and of the writ proceedings.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

DIVISION TWO

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and Gilbert Villanueva and Jaion Chung, Deputy Clerks.

Each of the following:

B142277 People v. Green
B141680 People v. Inthirathvongsy
B144274 People v. Martinez
B141884 People v. Greer
B143641 People v. Duran
B140312 People v. Lemons
B134910 Kwok v. Au
B136633 People v. Sandoval
B142608 People v. Rose
B143872 People v. Jose L.
B143440 People v. Shahin S.
B143932 People v. Wright
B142492 In re Alicia H. et al.
B144083 In re Jane R.

DIVISION TWO (Continued)

Each of the following (continued):

B143064 In re Miracle Devine R.
B144892 In re Leopoldo V.
B147315 Carey v. Sup. Ct.
B140827 Matter of Glen O.
B143274 Matter of Deavon C.
B142111 People v. Lemons
B140269 Richman V. Buter
B142159 People v. Mimnaugh
B141402 Marchetta v. Aerolineas Argentinas
B135011 People v. Wright
B143174 Wellwood v. HDOS Enterprises

Argument waived, cause submitted.

B139491 People
 v.
 Richard L.M.

Merits:

Argued by Richard Lennon for appellant and by Alan Tate, deputy attorney general, for respondent. Cause submitted.

B131680 Batya Laks
 v.
 Hillel Laks

Merits:

Argued by Gary Cohen for appellant and by Honey Amado for respondent. Cause submitted.

B141669 McGhee
 v.
 Owens-Brockway Glass

Merits:

Argued by Paul Sowa for appellant and by Christopher Bagnaschi for respondent. Cause submitted.

DIVISION TWO (Continued)

B130804 Okorn
 v.
 County of Los Angeles

Merits:
Argued by Franklin Ferguson for appellant and by Johanna Fontenot,
deputy county counsel, for respondent. Cause submitted.

B132711 Newco Waste Systems
 v.
 City of Duarte

Merits:
Argued by Jeffrey Gardner for appellant and by D. Wayne Leech for
respondent. Cause submitted.

B139143 Clifton Perrin
 v.
 Carol Perrin

Merits:
Argued by Robert Olson for appellant and by Robert Friedman for
respondent. Cause submitted.

B141783 People
 v.
 Pineda et al.

Merits:
Argued by Joseph Walsh for appellants and by Scott Quan, deputy attorney
general, for respondent. Cause submitted.

DIVISION TWO (Continued)

B140502 Gardner et al.
 v.
 Richie Femia

Merits:

Argued by Gary Stabile for appellants, by Guy Gorlick for respondents and by Julia Longjohn for respondents. Cause submitted.

Court recessed.

Court convened at 1:00 P.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and G. Villanueva, Deputy Clerk.

B143483 People
 v.
 Rizo

Merits:

Argued by Matthew Monfortom, deputy district attorney, for appellant and by Stephan DeSales for respondent. Cause submitted.

B145660 Carden
 v.
 Superior Court, Los Angeles County
 (Elma, Inc., et al, r.p.i.)

Merits:

Argued by Leighton Anderson for petitioner and by Geoggrey Long for real party in interest. Cause submitted.

DIVISION TWO (Continued)

B147406 Thompson
v.
Superior Court, Los Angeles County
(Thompson, r.p.i.)

Merits:

Argued by Kimberly LaLiberte for petitioner and by Kathleen Tomeo for real party in interest. Cause submitted.

B140757 Regency Wines
v.
Montaudon

Merits:

Argued by Daniel Gunning for appellant and by Bryan Arnold for respondent. Cause submitted.

B137719 Community Redevelopment of City of Hawthorne
v.
ICR Management Agency

Merits:

Argued by Claire Johnson for appellant and by John Rygh for respondent. Cause submitted.

B138291 Everson et al.
v.
Schwartz et al.

Merits:

Argued by Thomas Hyde for appellants and by Craig Aronson for respondents. Cause submitted.

Court adjourned.

March 22, 2001-Continued

DIVISION TWO (Continued)

B143590 People v. Ash (Not for Publication)

The judgment is affirmed.

Todd, J.

We concur: Nott, Acting P.J.
 Cooper, J.

B138712 Yepremian et al. (Not for Publication)
v.
Ball et al.

The judgment is affirmed. Respondent(s) to recover costs.

Todd, J.

We concur: Boren, P.J.
 Nott, J.

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The judgment is affirmed.

Todd, J.

We concur: Boren, P.J.
 Cooper, J.

DIVISION TWO (Continued)

B141937 Valencia et al. (Certified for Publication)
 v.
 Rodriguez et al.

The judgment is affirmed.

Todd, J.

We concur: Nott, Acting P.J.
 Cooper, J.

DIVISION THREE

B143048 People (Not for Publication)
 v.
 Beasley

The judgment is modified by striking the trial court's previous award of precommitment credit and by awarding appellant a total of 649 days precommitment credit against his May 19, 2000 prison sentence, consisting of 180 days of credit for the county jail term imposed on October 20, 1998; 365 days of credit for the county jail term imposed on April 13, 1999; 70 days of custody credit for two periods March 26, 1999, to April 13, 1999, inclusive, and April 3, 2000, to May 19, 2000, inclusive; and 34 days of conduct credit for those two periods. As modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modifications.

Croskey, Acting P.J.

We concur: Aldrich, J.
 Fidler, J. (Assigned)

DIVISION THREE (Continued)

B137926 People (Not for Publication)
v.
Diaz

The concurrent sentence on counts 2, 3 and 4 hereby ordered stayed. As modified, the judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B142469 People (Not for Publication)
B144834 v.
Phelan

The petition for habeas corpus is granted. The matter is remanded to the superior court with directions to conduct an evidentiary hearing with respect to Phelan's claim of ineffective assistance of counsel and breach of the plea agreement. We confer jurisdiction upon the superior court to grant or deny relief based upon its resolution of the factual issues presented. The order to show cause, having served its purpose, is dissolved. The appeal is dismissed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B143429 Grimsley et al. (Not for Publication)
v.
Ananyan et al.

The judgment from which defendant has appealed is affirmed. Costs on appeal to plaintiffs.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B137071 Yahalom (Not for Publication)
v.
Panish

The judgment appealed from is affirmed. The post-judgment order awarding the Panishes attorney fees is reversed and remanded with directions to the trial court to conduct further proceedings consistent with the views expressed herein.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FOUR

[illegible]

The order denying appellant's motion to disqualify counsel is affirmed. Respondent to recover her costs.

Lewin, J. (Assigned)

We concur: Epstein, Acting P.J.
Hastings, J.

B137785 People (Not for Publication)
v.
Rendon, Jr.

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

March 22, 2001-Continued

DIVISION FOUR (Continued)

B134577 People (Not for Publication)
v.
Ramirez

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B140977 People (Not for Publication)
v.
Robert B.

For the foregoing reasons, the judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

B140146 People (Not for Publication)
v.
Graham

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Lewin, J. (Assigned)

March 22, 2001-Continued

DIVISION FOUR (Continued)

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The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Lewin, J. (Assigned)

B141478 People (Not for Publication)
v.
Dill

The judgment is affirmed.

Lewin, J. (Assigned)

We concur: Vogel (C.S.), P.J.
Epstein, J.

B142993 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Annette C.

The order is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Lewin, J. (Assigned)

DIVISION FOUR (Continued)

B137224 People v. Forcada (Not for Publication)
B145573 In re Joseph G. Forcada on Habeas Corpus

The judgment of conviction is affirmed but appellant's admission that his prior convictions under sections 286 and 288a constitute strikes under the Three Strikes law is set aside. The matter is remanded for further proceedings to determine if these two prior convictions qualify as "strikes" and then for resentencing. The petition for a writ of habeas corpus is denied.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B141034 People v. Alfred (Not for Publication)
B146061 In re Harold Alfred on Habeas Corpus

The sentence is reversed, and the matter is remanded with directions to vacate the true finding on the narcotics-related prior conviction allegation, to afford Alfred the opportunity to readmit the truth of the allegation after first having been advised and obtained his waiver of his constitutional rights; to conduct further proceedings not inconsistent with this opinion if he elects not to admit the allegation; and to resentence Alfred accordingly. In all other respects, the judgment is affirmed. The petition is denied.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

March 22, 2001-Continued

DIVISION SIX

B142658 People (Not for Publication)
v.
Jaimes

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B143004 Bashkin (Not for Publication)
v.
Blase

The order of the trial court is affirmed. Costs on appeal are awarded to respondents.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

B141164 People (Not for Publication)
v.
Lai

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

March 22, 2001-Continued

DIVISION SIX (Continued)

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The probation search condition for firearms and pepper spray is stricken. In all other respects the judgment and sentence are affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B141894 County of Santa Barbara (Not for Publication)
v.
Grayham

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

B142024 Solovij (Certified for Publication)
v.
Gourley

The judgment of the trial court is affirmed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

March 22, 2001-Continued

DIVISION SIX (Continued)

B142149 People (Not for Publication)
v.
Contreras

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

B132667 Operating Engineers Funds, Inc.
v.
City of Thousand Oaks

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B136029 People
v.
Royster

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)